

THE GERMAN STERILIZATION ACT OF 1933: "Gesetz zur Verhütung erbkranken Nachwuchses"

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AS a result of the war, most of the documents dealing with the carrying out of eugenic legislation in Germany are lost. The total number of eugenic sterilizations between 1934 and 1945 can therefore only be estimated. Gürtner, the Attorney-General at that time, has stated that 62,463 persons were sterilized in 1934 and that the number was as high as 71,760 in 1935. Since 1936, however, there has been a considerable decrease in the number of proceedings brought before the *Erbgesundheitsgerichte*. A "Central Association of Sterilized Persons," constituted after 1945 with a view to financial indemnification, maintained that in twelve years the total number of sterilizations amounted to two million. Lenz, however, maintains that not more than 350,000 sterilization operations were performed. From 1934 to 1945, in the Hamburg-Altona district, 18,987 sterilization proceedings were held and 15,816 decrees for sterilization were made. In Hamburg the most rigorous standard was applied; based on the Hamburg rate, the number of sterilizations would amount to nearly 300,000, but the real number may be about 200,000 to 250,000. But even this exceeds by far the total number of sterilizations in all other countries of the world since the enactment in 1907 of the first sterilization law in the American state of Indiana. What is the moral of the praxis and the handling of sterilizations in Germany?

The History of Eugenic Sterilization

The first sterilization against the passing on of a hereditary taint was carried out as early as 1897, when the gynecologist Kehrner of Heidelberg operated on a married woman who had borne several idiotic and feeble-minded children. A draft law to

enforce sterilizations for eugenic reasons was submitted to the German Reichstag in 1925. In the discussion in 1927 of the amendment to the German Criminal Code it was agreed that sterilization on medical grounds should no longer be considered as a personal injury. A eugenically or socially indicated sterilization, performed with the consent of the injured person, should be liable to prosecution only if violating "good manners and customs." Before 1933, sterilizations of minors and adults were performed in Germany with the explicit consent of the Court of Chancery and if the costs were paid by public authorities. The total number, however, has been very small. An inquiry in ninety-five cities of more than 50,000 inhabitants, carried out in 1930 by Fetscher of Dresden, showed that there were only 112 sterilized persons: eighty-three women had been sterilized on medical grounds! Only eighteen women and eleven men were sterilized for eugenic reasons. Up to 1932 Fetscher himself operated on sixty-five persons in Dresden for eugenic reasons; Klose, between 1929 and 1932, on twenty-one persons in Kiel, nineteen of these on account of congenital imbecility.

On July 14th, 1933, the "Gesetz zur Verhütung erbkranken Nachwuchses" (Act for Averting Descendants afflicted with Hereditary Disease) permitted the sterilization of those persons who could be confidently expected to transmit serious physical or mental defects to their descendants. Among the conditions mentioned were: congenital imbecility, schizophrenia, manic-depressive insanity, hereditary falling sickness (epilepsy), hereditary St. Vitus's dance (Huntington's chorea), hereditary deafness or blindness, serious physical deformities and chronic alcoholism.

The application for sterilization could be made by the patient himself, or, with the approval of the Court of Chancery, by his legal representative, or by the local public health officer. If the person was a patient in a hospital, sanatorium or asylum, the director of the institution was authorized to apply for sterilization. Erbgesundheitsgerichte, which were annexed to a District Court, made the preliminary decisions, against which a protest could be lodged within two weeks. The final decision was made by Erbgesundheitsgericht annexed to the Provincial Court of Appeal. Decrees could then be carried out without the consent of the person to be sterilized. After the war, records of some cases gave the impression that the law had been misused against political enemies.

After the war, unlike other Nazi laws, the Act "zur Verhütung erbkranken Nachwuchses" was not rescinded by the Control Commission of Germany (C.C.G.). New boards of the Erbgesundheitsgerichte, however, have not been constituted and therefore no use is made of the Act.

Some of the Länder rescinded the whole Act or parts of it; in some instances only the rules concerning the interruption of pregnancy are still in force. The legal uncertainty in the field of eugenics, which was created after the war, calls very urgently for a change.

The order of July 28th, 1947, enacted by the British Zone's Central Board of Justice, dealing with the reopening of proceedings in Erbgesundheitsachen, was followed by a report of those proceedings up to 1945. The claims for financial compensation for the enacted sterilizations were decided upon under another body—the compensation legislation for victims of the Nazi Government—but the reopened cases were very informative in many other respects. In addition, I asked my students of the Akademie für Staatsmedezin in Hamburg to examine the documents on the carrying out of the Erbgesundheitsgesetz in representative urban and rural zones. The results obtained by these public health officers have been collected in a series of papers. In all these investigations there was no evidence that any reasons other than eugenic ones influenced the handling of the proceedings. The improper political misuse mentioned above seems to have occurred only to a very insignificant extent, but that it should have occurred at all is a most regrettable fact.

Grounds for Sterilization

Our investigations give a reliable frequency distribution of conditions leading to sterilization. Congenital imbecility, schizophrenia and hereditary epilepsy added up to 85 per cent and constituted the chief reasons for the operations.

TABLE I
FREQUENCY DISTRIBUTION OF HEREDITARY CONDITIONS LEADING TO STERILIZATION
REPRESENTATIVE URBAN AND RURAL AREAS OF WESTERN GERMANY

Area:	Hamburg	Braunschweig	Bochum	Flensburg Stadt/Land	Kiel	Freiburg/Br.
Total numbers of proceedings ...	15,816	2,756	1,172	305 237	211 ♀ 89 ♂	214 ♂
Period ...	1934-45	1934-44	1934-44	1934-45	1934-37	1934-35
Conditions:	PER CENT OF TOTAL STERILIZATIONS					
Imbecility ...	62.3	59.8	52.8	64.4 70.8	78.2 64.2	56.0
Schizophrenia ...	14.3	13.9	14.2	20.5 15.2	8.0 12.3	12.0
Manic-depressive Insanity ...	1.6	0.8	3.5	0.6 0.8	0.5 1.1	2.0
Hereditary Epilepsy ...	10.2	19.7	22.4	10.2 11.2	9.8 15.7	11.0
Hereditary St. Vitus's dance ...	0.2	0.2	—	0.9	—	—
Hereditary Blindness ...	0.5	0.5	2.5	— 0.4	—	4.0
Hereditary Deafness ...	1.0	2.6	1.5	0.4 0.8	0.4	4.0
Deformities ...	0.7	1.5	0.5	1.5 0.8	0.9	—
Alcoholism ...	9.2	1.0	2.6	1.5	2.2 6.7	11.0
Total	100.0	100.0	100.0	100.0 100.0	100.0 100.0	100.0

In general, sterilizations were performed in equal numbers on both sexes. In Hamburg, 8,559 out of 15,816 sterilizations were carried out on men, 7,257 on women. Sterilizations for congenital imbecility were performed more frequently on females, those for chronic alcoholism more frequently on males. The distribution of hereditary conditions leading to sterilization in several large psychiatric hospitals is also rather informative:

rejecting a sterilization on account of "social proof" likewise shows precision in handling the law. By bringing a case to the Erbgesundheitsobergerichte as the higher court, which was done fairly frequently, local influence could be avoided and new scientific knowledge could be taken into account.

An edict of the Department of the Interior, dated September 13th, 1939, ordered that medical health officers should not apply for sterilization if pregnancy was improbable

TABLE 2

FREQUENCY DISTRIBUTION OF INDICATION FOR STERILIZATION IN REPRESENTATIVE PSYCHIATRIC HOSPITALS.

Institution:	Königslutter (Landesheilanstalt)	Aplerbeck (Prov. Anst.)	Ilten (Prov. Anst.)	Bethel (Inn. Mission)
Diagnosis:		Per cent of Total Sterilizations		
Congenital Imbecility ...	13.3	25.2	36.8	19.0
Schizophrenia ...	79.5	60.7	52.3	18.0
Epilepsy ...	4.0	9.7	4.6	60.0
Other Hereditary Conditions ..	3.2	4.4	6.3	3.0
Total ...	100.0	100.0	100.0	100.0

The institutions named in Table 2 show typical differences. The Landes- und Provinzial-Heil- und Pflegeanstalten (State and county hospitals) deal mostly with schizophrenia, while epileptic cases predominate in Bethel, a typical charity hospital. Two-thirds of all sterilizations were carried out between 1934 and 1936.

TABLE 3
REJECTION OF STERILIZATION APPLICATIONS

Area	Number of Rejections	Percentage of Proceedings
Hamburg ...	2,425	12.2
Braunschweig ...	431	17.0
Bochum ...	111	10.7
Flensburg/Town	79	25.9
Flensburg/County	43	18.1

With regard to so-called serious physical deformities, Harmsen showed in 1935 that sufferers from congenital dislocation of the hip were on the whole quite talented and socially valuable people. In this group, therefore, as Smidt showed in 1953, numerous applications were rejected, if they were put at all. In 1936 Harmsen pointed out that the question of the seriousness of imbecility in relation to social aptitude resulted in frequent demands for revision at Erbgesundheitsobergerichte. The rather high proportion of decisions of the superior court

(e.g. with women in the climacteric, or women who had for several years lived in childless matrimony), if the diagnosis was not clear or in borderline cases. The circular of April 8th, 1943, brought a further restriction, instructing the medical officers to put in applications only in cases where the diagnosis was absolutely clear and a classic form of development could be expected, or if the case could be indisputably diagnosed as a hereditary affliction. More than ever, judgment should be based on practical genetics and on social adjustment.

Analysis of Reopened Cases

While 15,816 sterilization decisions had been closed from 1934 to 1945 in Hamburg, the reopening edict of 1947 was followed by 458 demands for revision leading to new proceedings between 1947 and 1952. Traenkner and Bonhoff carefully analysed the investigations of these reopened cases. For the evaluation of their findings it is important to note that these reopened cases, representing about one in thirty-five of the original material, coincide with the "old proceedings" as to sex and age distribution as well as in their diagnostic sub-groups.

Nevertheless, the 664 applicants (4.2 per cent of sterilized persons) may very well represent a certain amount of self-selection.

The re-trials in Erbgesundheitsangelegenheiten confirmed the demand for the special consideration of social aptitude and social adjustment in a very instructive manner. In the re-trial proceedings, two-thirds of the former sterilization decisions were quashed—preponderantly those on women. In the imbecility group, representing 74 per cent of all the re-trial cases, the revised judgments were preponderantly on persons sterilized before their twenty-fifth year, whose prognoses had obviously been put too unfavourably. Above all, the importance of poor environmental influences in adolescence and infancy (dipsomania or alcoholism of one or both parents, illegitimate birth, early divorce of the parents, early loss of parents, etc.) had certainly been underestimated.

A survey of women sterilized in Kiel, published by Felicitas Klose in 1938, showed that 82 per cent of the sterilized women led normally moral lives; 4.8 per cent continued their immoral lives; 2.8 per cent were sexually promiscuous before the operation; 7.6 per cent seemed to be endangered by extraordinary sensual desires; 1.9 per cent, however, did become more stable and home-loving; 0.9 per cent had no sexual inclinations. A summary states that sterilization did not further a sliding off into prostitution. Beukert, too, conducting his investigations at Bochum, stated that he found no cases of sterilized women (including imbeciles) turning to prostitution and promiscuity.

Regarding social adjustment, only one-quarter of all cases of imbecility proved to be a burden on society, and very few cases could be considered a severe burden. People with a slight or medium degree of imbecility were often made to feel relatively secure in times of economic crisis by frequently changing their place of work! Thus, the value of sterilization in such cases of imbecility appears to be very doubtful. This seems to be particularly true in cases of early sterilization (before the age of twenty), and taking

into account social adjustment, which may be relatively good.

Large Asocial Families

The total significance of large asocial families with slight imbecility, although they are often the cause of concern to social welfare workers, is usually overestimated. Among thirty-seven unmarried mothers sterilized at Kiel there was one with nine children, but these thirty-seven unmarried mothers had only fifty-nine children between them, i.e. an average of roughly 1.6. The fringe of this group of imbecile persons, especially the prostitutes, rarely had a higher number of children. The revision of the Hamburg Erbgesundheitsverfahren (1952) showed that of all those who were sterilized for imbecility at an age of over twenty years, less than one-third had had even one child. The average number of children of those sterilized between their twentieth and thirtieth years was 0.36. Cases sterilized on account of severe alcoholism had an average of 1.4 children; most of these people were over thirty, 50 per cent were over forty. There is a similar low reproduction rate in other groups of people with hereditary afflictions. Schizophrenics, for instance, whose mortality rate is three times higher than the average, have a fecundity of one-quarter to two-thirds of the rest of the population.

Schizophrenia and Epilepsy

In the schizophrenic group, 50 per cent of the former decisions were quashed. This may be because of recent research in schizophrenia, according to which a certain diagnosis is possible only if there is also mental defect.

Re-investigation of the epilepsy group very often resulted in quashing former decisions, depending more upon the degree of the socio-psychic effect of the disease than upon the diagnosis. In this connection it may be noted that Sioli, according to Schröder, could verify only fifty-four out of 200 cases of alleged epilepsy as being hereditary.

"Phänokopien"

In 1933 Richard Goldschmidt observed for the first time the existence of non-hereditary conditions which he called "Phänokopien." Such "Phänokopien" occur not only in animals but also in humans—as, for instance, serious bodily deformities of new-born babies after the infection of the mother with German measles in the first four months of pregnancy. As Nachtsheim points out, the possibility of these "Phänokopien" calls for a detailed and exact differential-diagnosis and examination of family histories on the question as to whether a hereditary disease really exists.

Genetics and Sterilization

Experience of the German law of 1933 for preventing the transmission of hereditary disease, and progress in human genetics, has proved that the danger of passing on hereditary taints has often been overestimated. While it is true that research in twins confirms the importance of hereditary factors, the varying ways in which a disease may develop encourages therapeutic measures. Only a few genetic traits have such a strong (dominant) genetic force as to demand a renunciation of children. Moreover it must be remembered that many hereditary diseases eliminate themselves by non-marriage or by a very small number of children.

Sterilization seems in the main to be indicated for individuals who suffer from a hereditary disease who want the operation for personal reasons or out of consideration for their partner in matrimony or their possible descendants. Sterilization may also be wanted within the family after serious hereditary infirmities in children have occurred. Although a helpless member of a family may be regarded as a challenge, and as the permanent object of loving care, there are limits to spiritual strength which seems to justify a sterilizing operation. At the present time, lack of uniformity in the sterilization laws, coupled with the non-existence of a superior court to which decisions could be referred, has resulted in no operations being performed, not even in cases where sterilization is eugenically

desirable. On the other hand, it is my opinion that many healthy women are sterilized as a birth-control measure.

Generally, the consequences of negative eugenic measures by the State on a people's entire genetic substance cannot be overlooked. Experience up to 1945 proves that disregard of life, of human individuality and personality must result in the destruction of people and community.

The encouragement of the healthy and efficient family is still the best way for a qualitative policy of population.

REFERENCES

- (The titles of papers have been translated into English.)
- Bonhoff, G. (1953), Psychiatric Experiences with the Re-examination of Sterilized Persons. *Fortschr. Neurol.*, **21**, 251-284.
- von Brandis, H. J. (1935), The Sterilization of Males with Hereditary Diseases. *Münch. Med. Wschr.*, **82**, 1528-1530.
- Bremer Inaugural Dissertation 1953.
- Greggersen, H. (1938), Results of a Study of the Fate of a Number of Sterilized Men. *Veröffentl. a. d. Geb. d. Volksges. Dienstes*, **51**, 363-397.
- Harmsen, H. (1931), *Praktische Bevölkerungspolitik*. Junker u. Dünhaupt Verlag, Berlin.
- (1935), The Significance of Hereditary Crippling in the Health of the People. *Gesundheitsfürsorge*, **9**, 203-208.
- (1936), The "Gesetz zur Verhütung erbkranken Nachwuchses" and its Challenge to the Clergyman. *Schriftenreihe des Evang. Gesundheitsdienstes*, **6**.
- Klose, F. (1940/41), Investigation on the Fate of Women, who were Sterilized between 1934 and 1937 in the City of Kiel. *Der Öffentl. Ges. dienst*, **6**, 294-305, 325-333.
- Nachtsheim, H., Lenz, F. and Fetscher, R. (1952), *Für und wider die Sterilisierung aus eugenischer Indikation*. Thieme Verlag, Stuttgart.
- Schröder, H. W. (1947), Is Sterilization a Crime? *Das Dtsch. Gesd. wes.*, **2**, 113-115.
- Traenckner, K. (1953), Legal Aspects of Sterilization and Refertilization. *Fortschr. Neurol.*, **21**, 239-250.
- (1953), Results of Operations for Refertilization in Hamburg. *Arch. Gynäk.*, **182**, 387-403.
- Written Examination Papers at the School of Public Health in Hamburg. Leader: Prof. Dr. Harmsen:
- Beukert, H. (1948), The "Gesetz zur Verhütung erbkranken Nachwuchses vom 14.7.1933 and its Results in the Area of the Public Health Department of Bochum.
- Buchholtz, U. (1952), The Performance of the Act "zur Verhütung erbkranken Nachwuchses" in Flensburg (Town and County) up to 1945 and the Value of the File on Psychiatric Diseases.
- Böning, E. (1953), The performance of Sterilizations in the Bethel Hospital.
- Bonk, F. (1952), Expert Opinions of Public Health Officers on Injuries, caused by Nazi Legislation (District of Hanover).

- Evers, P. (1949), Extent and Development of Eugenics during and after the War.
- Klein, S. (1948), The Reasons for the Reopening of Cases in "Erbgesundheitsachen" in 1947 and its Results.
- Mühe, G. (1948), The Performance of the "Gesetz zur Verhütung erbkranken Nachwuchses" and its Results in the Psychiatric Hospital Warendorff.
- Noeres, A. (1952), Medical Problems of Expert Opinions in "Sonderhilfe" Claims in the Counties Osnabrück and Melle.
- Smidt, F. (1953), The Problems of Dislocation of the Hip Joint in Ostfriesland and the "Gesetz zur Verhütung erbkranken Nachwuchses."
- Straube, A. (1948), The Performance of the "Gesetz zur Verhütung erbkranken Nachwuchses" and its Results in Braunschweig-County and in the Area of the Landesheil- u. -pflegeanstalt Königslutter (Psychiatric Hospital).
- Traenckner, K. (1951), Experiences with the Reopening of Cases in Erbgesundheitsachen.

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